



North Carolina Department of Environment and Natural Resources

Dexter Matthews, Director

Division of Waste Management

Beverly Eaves Perdue, Governor
Dee Freeman, Secretary

March 21, 2012

CERTIFIED MAIL: 7006 2150 0005 2458 9334
RETURN RECEIPT REQUESTED

Mr. Leslie Erickson
PO Box 1783
Fairview, NC 28730

SUBJECT: **Notice of Violation**
Compliance Inspection Report
Les's Mulch Plus
45-05 TP
Henderson County

Dear Mr. Erickson

On March 16, 2012, Andrea Keller and Larry Frost, representing the State of North Carolina, Division of Waste Management Solid Waste Section, inspected the above referenced facility for compliance with North Carolina solid waste statutes and rules. Ms. Linda Erickson was present and represented Les's Mulch Plus during this inspection. The following violations were noted:

- A. **15A NCAC 13B .0201 (c):** No solid waste management facility shall be established, operated, maintained, constructed, expanded or modified **without an appropriate and currently valid permit issued by the Division**. It is the responsibility of every owner and operator of a proposed solid waste management facility to apply for a permit for the facility. The term "owner" shall include record owners of the land where the facility is located or proposed to be located and holders of any leasehold interest, however denominated, in any part of the land or structures where the facility is located or proposed to be located.

On November 2, 2011 the permit for facility 45-05 TP Les's Mulch Plus was allowed to expire. No renewal request is on file with the Section. The facility was notified in writing on May 31, 2011 of the permit renewal date and of who to contact with the Section (Mr. Larry Frost). Ms. Erickson noted, during the site inspection, that the facility was unaware of the expiration.

Additionally, Les's Mulch Plus remains in **violation of 15A NCAC 13B .0203 (d)** for failure to comply with the conditions of the permit as stated in the July 15, 2010 inspection report. The Rule states that *by receiving solid*

waste at a permitted facility, the permittee(s) shall be considered to have accepted the conditions of the permit and shall comply with all conditions of the permit.

During the July 15, 2010, site inspection the location of waste piles (both processed and unprocessed land clearing debris) violated buffer requirements cited within the Operations Plan (Attachment 2, Document 3 of the approved documents). According to the approved documents:

1. A minimum 100-foot buffer must be maintained between the on site well and all material piles;
2. A minimum 100-foot buffer must be maintained between all material piles and all surface waters (on site creek and ponds); and
3. A 50-foot minimum buffer requirement must be maintained between all material piles and the property lines.

COMPLIANCE SCHEDULE

Based upon the foregoing, Les's Mulch Plus shall come into compliance with all dates noted below and with requirements of the application regulations in 15A NCAC 13B .0201 (c) and .0203 (d) by completing the following:

1. Within 15 days of issuance of this report (**April 4, 2012**), Les's Mulch Plus must **contact** the Permitting Branch to discuss permit renewal. [Larry Frost, 828-296-4704; larry.frost@ncdenr.gov]
2. Within 30 days of issuance of this report (**April 19, 2012**), Les's Mulch Plus must **submit, in writing**, a documentation or full application which will start the permit renewal process with the Section.
3. The facility must immediately work to resolve the buffer violation requirements. Failure to do so could result in denial of the permit renewal.
4. **No further intake of material is allowed at the facility** until further notified and after resolution of Permitting Branch requirements for the permit renewal process.

Failure to meet compliance requirements will result in the termination of all solid waste management at the facility and the removal of all solid waste material from the site for proper management and/or disposal.

Les's Mulch Plus shall provide written documentation on company letterhead confirming when the noted compliance schedule has been completed. Include in this certification any actions taken to prevent these violations from occurring in the future. Mail this certification to Andrea Keller, Asheville Regional Office, 2090 US Hwy 70, Swannanoa, NC 28778 by the noted compliance dates.

Failure to comply with this schedule may subject the facility and/or all responsible parties to enforcement actions including penalties, injunction from operation of a solid waste management facility or a solid waste collection service and any such further relief as may be necessary to achieve compliance with the North Carolina Solid Waste Management Act and Rules. Pursuant to N.C.G.S. 130A-22(a) and 15A NCAC 13B .0701-.0707, an administrative penalty of up to \$15,000.00 per day may be assessed for each violation of the Solid Waste Laws, Regulations, Conditions of a Permit, or an Order issued under Article 9 of Chapter 130A of the N.C. General Statutes.

If you have any questions please contact me at (828) 296-4700 or e-mail andrea.keller@ncdenr.gov .

Sincerely,



Andrea Keller
Environmental Senior Specialist
Solid Waste Section

cc: Jason Watkins, Western District Supervisor – Solid Waste Section
Mark Poindexter, Field Operations Branch Head – Solid Waste Section
Shawn McKee, Compliance Officer – Solid Waste Section
Larry Frost, Permit Engineer – Solid Waste Section